

numerals "42, 43 etc." The Examiner also objected to the drawings because in "FIGS. 7, 8, and 10, the numeral 55 is used to denote three different structures."

Applicants respectfully traverse this rejection and request its reconsideration and withdrawal. The drawings have been amended to overcome all of the Examiner's objections. Applicants respectfully submit that the rejection be withdrawn and the drawings admitted.

The Examiner has objected to the disclosure because of the following informalities "(i) incompleteness of the disclosure at Page 2, lines 18-23 and at Page 6, lines 15-22; (ii) the terminology "discontinuous" and "substantially fluid impervious" appears to be inconsistent in the Abstract and at Page 3, line 30; (iii) "7A" should be -- 8-- at Page 9, line 33; (iv) "14" should be --10--at Page 15, line 31; (v) the description on Page 25, lines 12-14 is inaccurate, "i.e. there is one layer 52 or two layers 51 in FIGS. 9 and 10"; (iv) in "FIGS. 14 and 15 what is the roller vertically between 93 and 95?"; and (vi) the descriptions of FIGS. 3-8 and 10 are considered to be improper for the same reason as discussed in the drawing objections, "i.e., same numerals for different structures."

Applicants respectfully traverse the objection and request its reconsideration and withdrawal. The specification has now been amended to overcome all of the objections.

With respect to the Examiner's contention in (ii) above, Applicants respectfully submit that the terminology "discontinuous" is not inconsistent with "substantially fluid impervious" as it relates to the backsheet. The backsheets in the present invention are made from a substantially fluid impervious material such as a plastic film. See Page 13, line 35 to Page 14, line 23. These backsheet also contain a discontinuity, such as an aperture 44. Thus, the phrase "discontinuous, substantially fluid impervious backsheet" is not inconsistent. Applicants would request the Examiner to suggest a better phrase to describe this feature of the invention, if possible. Otherwise, it is believed that one of ordinary skill in the art would certainly be apprised of what a discontinuous, substantially fluid impervious backsheet is with respect to the invention.

With respect to the Examiner's question with respect to the rollers, Applicants presume that the Examiner is asking why these elements are not identified. These rollers merely provide the functions of directing and placing web 84 from nip 93 to the first cut and slip assembly 95. As such, these rollers are not identified because they are not essential for a proper understanding of the present invention. Applicants, therefore, respectfully submit that this ground for the objection is improper.

The Examiner has rejected Claims 1-27 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner contends the

following: (i) Claim 1 requires "a positive structural connection between the sheet and core component..."; (ii) and Claim 10 a positive structural antecedent basis for "each...layers" should be defined"; and (iii) in Claim 11, "Applicant inferentially includes the wearer as part of the claimed combination which is contrary to the preamble of the claim".

Applicants respectfully traverse the rejection and request its reconsideration and withdrawal.

With respect to Claim 11, it has been amended to remove the recitation to the wearer. The objection to Claims 1 and 10 is mooted by the cancellation of these claims.

The Examiner also rejected Claim 6, 21, and 27 under 35 U.S.C. §112, second paragraph, on the basis that they are indefinite in so far as they fail to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner stated that since the Applicant defines his/her invention in terms of a result of a particular test(s), in this case absorptive pressures, it is a basic premise that under the second paragraph of 112 that one of ordinary skill in the art must be able to determine with absolute certainty whether every particular claim necessarily falls within the scope of the claim or outside of the scope of that claim.

Applicants respectfully traverse this rejection and request its reconsideration and withdrawal.

The Examiner has failed to set forth the proper standard for determining indefiniteness under 35 U.S.C. §112, second paragraph, and has failed to make the necessary inquiries as to whether the claims set out a particular area with a reasonable degree of precision and particularity. It is apparent that the Examiner has merely made a blanket rejection of claims wherein the invention is defined as comprising a material exhibiting a particular liquid handling attribute that is particularly relevant to the ability of the core material to absorb fluid in a particular manner. Applicants submit that this rationale for rejecting the claims is not supported by the relevant statute, case law or the M.P.E.P. Indefiniteness must be determined by the facts in each case, not by reference to an abstract rule. Accordingly, the rejection under 35 U.S.C. §112, second paragraph, is improper and should be withdrawn.

The Examiner has rejected Claims 23-25 under 35 U.S.C. §102(b) as being anticipated by Roessler, et al. (U.S. Patent 5,405,342).

The rejection has been mooted by the cancellation of Claims 23-25.

The Examiner rejected Claims 1-2 under 35 U.S.C. §102(b) as being anticipated by Buchler (U.S. Patent 2,530,647) or Schiff (U.S. Patent 833,849) stating that the "opening is defined by flaps 20 of Buchler or see FIGS. of Schiff."

The cancellation of Claims 1 and 2 moots this rejection.

Claims 1, 7, 8, 11, 16 and 23 were rejected under 35 U.S.C. §102(b) as being anticipated by Lewis (GB 493,819). The Examiner referred to FIG. 1 in the disclosure at Page 2, lines 26-91 to support this rejection.

Applicants respectfully traverse this rejection and request its reconsideration and withdrawal. The Lewis reference fails to teach or suggest several elements of the claimed invention. The Lewis reference fails to teach or suggest an opening in the backsheet having a flap which is replaceable nor of multi-component absorbent cores. For these reasons, the Lewis reference does not and cannot anticipate the claims of the present invention such that the rejection should be withdrawn.

Claims 9-10 and 22 were rejected under 35 U.S.C. §103 as being unpatentable over Lewis in view of Murphy. The Examiner contends that to "make the pad without a blocking layer of Lewis multiple independently aired and dried pad including blocking sheets would be obvious in view of the interchangeability as taught by Murphy."

Applicants respectfully traverse this rejection and request its reconsideration and withdrawal. As stated above, the Lewis reference fails to teach or suggest several elements of the present invention. The Murphy reference also fails to teach or suggest several elements of the claimed invention. Any combination of the two references also necessarily fails to teach or suggest such elements. For these reasons, any combination of the references fails to teach or suggest several elements of the claimed invention such that the rejection is improper and should be withdrawn.

Claims 1, 6-11, 16 and 22-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Murphy in view of Lewis. The Examiner contended that since Murphy included all of the claimed structures of the present invention except for providing access through the backsheet or between the front and backsheets, "to make the front sheet access of Murphy backsheet or between front and backsheets access would be obvious in view of the interchangeability as taught by Lewis."

Applicants respectfully traverse this rejection and request its reconsideration and withdrawal. As stated above, both the Murphy and Lewis references fail to teach or suggest several elements of the present invention such that any combination of these references also necessarily fails to teach or suggest such elements. For these reasons, the rejection should be withdrawn and all of the claims allowed.

Claims 3-6, 12-15, 17-21 and 24-27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Murphy or Lewis. The Examiner stated that although Applicants claim core component composition or absorbent pressures which are not taught by Murphy and Lewis, the Examiner contends that these claimed elements "are merely a matter of engineering design choice and thus do not serve to patentably distinguish the claimed invention over the prior art" because the disclosure fails to set "forth any of the specific features claim provide any result or solve any recognized problem in the art over the prior art device of Murphy or Lewis."

Applicants respectfully traverse this rejection and request its reconsideration and withdrawal. As stated above, the Murphy and Lewis references each fail to teach or suggest several elements of the claimed invention such that any combination of the claimed invention also would necessarily fail to teach or suggest such elements. For these reasons, the rejection is improper. Further, the Examiner has failed to establish a *prima facie* case of obviousness in that the Examiner admits that the references fail to teach or suggest limits of the present claims. For these reasons, the rejections should be withdrawn and all the claims allowed.

Claims 26-27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Roessler, et al. The Examiner states that the same contentions as that presented in the §103(a) rejection over Murphy in view of Lewis apply.

The rejection is moot in light of the cancellation of Claims 26-27.

Claims 3-6 were rejected under 35 U.S.C. §103(a) as being unpatentable over Buchler or Schiff. The Examiner states that the same contentions as that presented in the §103(a) rejection over Murphy in view Lewis apply.

The rejection is moot in light of the cancellation of Claims 3-6.

SUMMARY

All of the rejections in the Office Action dated December 2, 1997, have been discussed as have the distinctions between the cited references and the claimed invention.

No new matter has been added by this amendment.

Applicants respectfully request that the rejection be withdrawn and all of the claims allowed.

Issuance of a Notice of Allowance at an early date is earnestly solicited.

Respectfully submitted,

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